

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3112
Administrative Law Judge Division
May 8, 2003

R E S O L U T I O N

RESOLUTION ALJ 176-3112. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on May 8, 2003, the following Commissioners voting favorably thereon:

/s/ WILLIAM AHERN

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3112 (5/8/03)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|---|--------------------------------------|-----------------------------|----------------|
| A03-04-017 CHUNGHWA TELECOM GLOBAL, INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-04-019 DESERET TELECOMMUNICATIONS NETWORK, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-04-020 FREEDOMSTARR COMMUNICATIONS, INC., (U 5892-C), for a Certificate of Public Convenience and Necessity to provide Resold and Facilities-Based Local Exchange Services in the State of California. | Ratesetting | Ratesetting | NO |
| A03-04-021 SOGO BUS COMPANY, LLC, for passenger stage authority under Section 1031, et seq., of the California Public Utilities (PU) Code, to transport passengers and baggage express, on an on-call, county-to-county pricing basis, between the counties of San Diego, Orange, Los Angeles, Santa Clara, San Francisco and Alameda, on the one hand, and to establish door-to-door shuttle service between points in Los Angeles County and LAX, ONT and Los Angeles/Long Beach Harbors, on the other hand; and to establish a zone of rate freedom. | Ratesetting | Ratesetting | NO |
| A03-04-022 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E) for approval of its 2003 Revenue Requirement and related estimates under the Energy Resource Recovery Act (ERRA); for approval of its 2003 AB57 Trigger and Threshold Amounts; and for approval of a Proposed Scope and Schedule for ERRA Proceedings. | Ratesetting | Ratesetting | YES |
| A03-04-023 PHONECO, L.P., for a Certificate of Public Convenience and Necessity to offer Limited Facilities-Based Local Exchange, Access and Interexchange Services. | Ratesetting | Ratesetting | NO |

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3112 (5/8/03)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|--|--------------------------------------|-----------------------------|----------------|
| A03-04-025 SAN GABRIEL VALLEY WATER COMPANY, (U 337-W), for Authority to Implement a Low-Income Rate in its Los Angeles County Division in compliance with Decision 02-10-058 in A.01-10-028. | Ratesetting | Ratesetting | YES |
| A03-04-026 MIKO TELEPHONE COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-04-027 ONE PHONE INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-04-029 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E) for authority to lease available land on two sites located on the Gould-Mesa Transmission right of way to Park Edison. | Ratesetting | Ratesetting | NO |
| A03-04-030 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E) for authority to lease available land on the Mandalay-Santa Clara Transmission right of way to Chaparral Land Company. | Ratesetting | Ratesetting | NO |
| A03-04-031 LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, for an order authorizing the construction of a two-track at-grade crossing for the Eastside Corridor Light Rail Transit Line across Vignes Street in the City of Los Angeles. | Ratesetting | Ratesetting | NO |
| A03-04-032 ARROWHEAD MANOR WATER COMPANY, INC., RIO PLAZA WATER COMPANY, INC., Application of Arrowhead Manor Water Company, Inc., (Arrowhead) for Authority to sell, and of Rio Plaza Water Company, Inc., for Authority to buy, all of the stock of Arrowhead on the terms and conditions set forth in Exhibit A to the Application. | Ratesetting | Ratesetting | NO |

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3112 (5/8/03)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|--|--------------------------------------|-----------------------------|----------------|
| A03-04-033 ELECTRONIC STORED VALUE SERVICES, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-04-034 CITY OF LONG BEACH PUBLIC WORKS DEPARTMENT, for an order authorizing the construction of a pedestrian grade crossing on Long Beach Boulevard at 12th Street across the northbound and southbound LRT tracks of the Los Angeles-Long Beach Blue Line in the City of Long Beach. | Ratesetting | Ratesetting | NO |
| A03-05-001 BUSINESS NETWORK LONG DISTANCE, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-05-002 PACIFIC GAS AND ELECTRIC COMPANY, Annual Earnings Assessment Proceeding [AEAP] Application for Approval of Energy Efficiency Shareholder Incentives for Third Claim for Incentives for 1998 Accomplishments for Pre-1998 Programs, and for Recovery of Costs for the 2002 Interruptible Load Programs. | Ratesetting | Ratesetting | YES |
| A03-05-003 SOUTHERN CALIFORNIA GAS COMPANY, (U 904-G), for Authority to Increase its Gas Revenue Requirements to Reflect its Accomplishments for Demand- Side Management Program Year 1997 and Low-Income Program Years 2001 and 2002 in the 2003 Annual Earnings Assessment Proceeding [AEAP]. | Ratesetting | Ratesetting | YES |
| A03-05-004 SAN DIEGO GAS & ELECTRIC COMPANY, (U 904-G), for Approval of Incentives associated with its Accomplishments for Low Income Program Year 2001 and Demand Response Program Expenditures in the 2003 Annual Earnings Assessment Proceeding [AEAP]. | Ratesetting | Ratesetting | YES |

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3112 (5/8/03)

| NUMBER TITLE | PROPOSED CATEGORY | PRELIM. CATEGORY | HEARING |
|--|--------------------------------------|-----------------------------|----------------|
| A03-05-005 A FREEWAY EXPRESS, INC., for a passenger stage certificate consistent with Public Utilities Code Sections 226 and 1031 to conduct an on-call airport shuttle service between points in Los Angeles, Orange, San Bernardino and Riverside Counties on the one hand and John Wayne, Los Angeles International, Burbank, Long Beach, Ontario Airports, Amtrak and the Harbors on the other hand and a zone of rate freedom per Section 454.2 of the Public Utilities Code. | Ratesetting | Ratesetting | NO |
| A03-05-006 HARBOR COMMUNICATIONS LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013. | NDIEC Registration Application | Ratesetting | NO |
| A03-05-008 MOHAMMED SAEED, dba HORIZON AIRPORTER, for an extension of authority to operate as a Passenger Stage Corporation between points in the Counties of San Francisco, Alameda, Contra Costa, Solano, and Napa, and the San Francisco, Oakland and San Jose International Airports; and to establish a Zone of Rate freedom. | Ratesetting | Ratesetting | NO |
| A03-05-009 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E), for Approval of Pre-1998 Demand-Side Management Earnings Claims, 2001 and 2002 Low Income Energy Efficiency Earnings Claims, and Interruptible Load Programs Memorandum Account Balances recorded in 2002, and in support of 2002 Energy Efficiency Program Performance Achievements. | Ratesetting | Ratesetting | YES |